

**REMARKS**

Claims 14-30, and 36-72 are pending. Claims 1-13 and 31-35 are cancelled; claims 14, 30, 45, 50, 55 and 58 are amended. No new matter has been added.

The Examiner rejected claims 14, 16, 17, 19-30, 36, 38, 41-60 and 62-72 under 35 U.S.C. § 102(b) as being anticipated by Kaster (US Patent No. 5,234,447). Applicants respectfully traverse the rejection. Applicants, while not conceding that the claims presented in the prior amendment are not allowable, have amended the independent claims 14, 30, 45, 50, 55 and 58 to further define the invention to clearly overcome Kaster. The “permitting” step in each independent claim has been amended to state that that step is done without applying a force that moves the particular element (tissue securing element(s) or portion thereof) from the biased to the unbiased configuration. The present invention does not rely on the application of force to move the tissue securing element or elements or a portion thereof from the biased to the unbiased configuration. By way of contrast, Kaster is a staple device that uses an anvil and a staple forming tool to bend the members of the staple into the correct position. See Kaster, col 6:5-14. Therefore, Kaster teaches only to apply a force to bend the staple into the end configuration and teaches away from the claimed permitting steps of the independent claims. Applicants therefore submit that the rejection has been overcome and request that a notice of allowance be issued.

Applicants grant permission to the Commissioner to charge any fee, including the fee associated with the additional dependent claims added by this amendment, that is required during the prosecution of this application.

Respectfully submitted,

By: /Brian S. Tomko/  
Brian S. Tomko  
Reg. No.41,349

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
(732) 524-1239  
(732) 524-5575 (Fax)  
Dated: March 8, 2007